



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,225	10/09/2001	Rene Kagi	7041.P32CIP	2399

7590 12/10/2003

Philip J. Lee
Suite 525
10050 Regency Circle
Omaha, NE 68114

EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,225

Applicant(s)

KAGI, RENE

Examiner

Carlos Lugo

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5 and 11 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on September 22, 2003.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. **Claims 5 and 11 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "upon application of opposing axial forces applied to the rims" in line 14. However, the specification and the drawings (Figure 8) show that only one rim is applied with an axial force (in Figure 8, the force will be applied to the rim where reference number 12 is pointing), the other rim rest against the corner of the hole. It is clear that when the axial force is applied to the upper rim, there will be an opposite force, but is not applied by the person or instrument that applied the force to the upper rim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claim 2 is rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 859,733 to Bot.

Bot discloses a device (4) comprising a disc shaped surface, of generally uniform thickness, having a radially outer, annular and planar rim smaller than the diameter of a hole (3). The device includes a cone or dome shaped continuous surface with a central apex raised above the plane of the rim in a first direction.

The outer rim has a large enough diameter relative to the diameter of the hole that the rim expands radially outward to engage the wall of the hole upon application of an axial force applied in the first direction. The axial pressure will achieve radial expansion of the device rim and a press fit with a wall of the hole. The surface is flattened to traverse and seal the hole (lines 45-47).

6. **Claim 2 is rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,058,452 to Hoffmann.

Hoffman discloses a device (11) comprising a disc shaped surface, of generally uniform thickness, having a radially outer, annular and planar rim smaller than the diameter of a hole (9). The device includes a cone or dome shaped continuous surface with a central apex raised above the plane of the rim in a first direction.

The outer rim has a large enough diameter relative to the diameter of the hole that the rim expands radially outward to engage the wall of the hole upon application of an axial force applied in the first direction. The axial pressure will achieve radial expansion of the element rim and a press fit with a wall of the hole. The surface is flattened to traverse and seal the hole (Figure 2).

Allowabl Subject Matter

7. **Claim 5 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. **Claim 11 will be allowed because depends from claim 5.**
8. **Claim 4 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowable Subject Matter

9. The following is an examiner's statement of reasons for allowance:

Claims 4 and 5 present allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the cone or dome is formed at a first end of a cylinder (claim 4) and that the element, having a V cross sectional shape, is placed into the hole to flatten the annular raised section of the element thereby achieving a radial expansion of the element rim and a press fit with the wall of the hole (claim 5).

Regarding claim 4, Hoffman (US 2,058,452) and Bot (US 859,733) fails to disclose that the cone or dome is formed at a first end of a cylinder.

Wolfram (US 2,458,817) and Kowal (US 3,576,335) discloses a tube end having a frustoconical annular flange having a planar outer rim. However, both references fails to disclose that when the element is placed into the hole, the element is flatten

Art Unit: 3677

and it will achieving a radial expansion of the element rim and a press fit with the wall of the hole.

As to claim 5, Hoffman (US 2,058,452), Dreisin (US 3,038,456) and Bot (US 859,733) fails to disclose that the element has a second surface, inverted with respect to the first surface that when is placed into the hole to flatten the annular raised section of the element thereby achieving a radial expansion of the element rim and a press fit with the wall of the hole and reduce the distant between the outer rims of each surface.

Weber (US 3,637,223), Bialkowski (US 3,345,078), Trbovich (US 3,326,560) and Lien (US 4,372,565), previously prior art cited, discloses an element having two similar opposite surfaces, but fails to disclose that the element will be flattened to achieve a radial expansion.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

10. Applicant's arguments filed on September 22, 2003 have been fully considered but they are not persuasive.

Regarding applicant's arguments that neither Bot nor Hoffman discloses the invention as claimed in claim 2 (Page 5 Line 19), Bot and Hoffman discloses and illustrates the invention as claimed. Both, Bot and Hoffman discloses and illustrates

Art Unit: 3677

that the element, after been flattened, will traverse and seal the hole. In other words, the flattened element will lie across the hole and seal or secure the element.

Conclusion

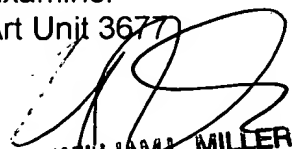
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

November 24, 2003.

Carlos Lugo
Examiner
Art Unit 3677



**WILLIAM L. MILLER
PRIMARY EXAMINER**